

Appl. No. 10/717,098
Docket No. 4981C2C
Amdt. dated January 17, 2008
Reply to Office Action mailed on October 18, 2007
Customer No. 27752

REMARKS

Claim Status

Claims 1-20 are pending in the present application. No claims are amended herein. The enclosed claim listing is provided for the Examiner's convenience. No additional claims fee is believed to be due.

Rejection Under 35 U.S.C. § 102(b) and § 103(a) Over Mason

Claims 1, 3, 5-11, and 14 have been rejected under 35 U.S.C. § 102(b), or in the alternative under 35 U.S.C. § 103(a), as being unpatentable over U.S. Patent No. 3,559,648 issued to Mason (hereinafter "Mason"). A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. (*See* MPEP § 2131, citing Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). In order to establish a prima facie case of obviousness, the prior art reference (or references when combined) must teach or suggest all the claim limitations. (*See* MPEP § 2143). It is respectfully submitted independent claim 1 is not anticipated by Mason, nor has the Office Action established a prima facie case of obviousness, because Mason does not teach or suggest all the claim limitations recited in independent claim 1.

Independent claim 1 recites a disposable absorbent article having a longitudinal axis and comprising a fecal material storage element "having laterally opposing longitudinal side edges disposed on opposing sides of the longitudinal axis, the fecal material storage element extending contiguously between the longitudinal side edges." The language of claim 1 recites that the longitudinal side edges are disposed on opposing sides of the longitudinal axis of the absorbent article, and that the fecal material storage element extends contiguously between the longitudinal side edges. Thus, the fecal material storage element of claim 1 extends contiguously across the longitudinal axis of the absorbent article. (emphasis added). In contrast to claim 1, Mason does not teach or suggest a material storage element that extends contiguously across the longitudinal axis of an absorbent article.

Mason discloses a diaper including an absorbent pad 10 with laterally spaced panel portions 25 folded inwardly to overlie a central section of the pad. (See Col. 2, ll. 6-27). The panel portions 25 do not meet in the central portion of the pad, and as such, are separated by a channel 30. (See Col. 2, ll. 6-27). Figures 1 and 2 of Mason are reproduced below with reference numbers of particular interest being described for clarity.

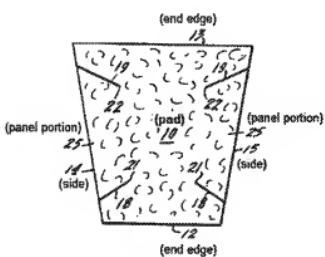


FIG. 1

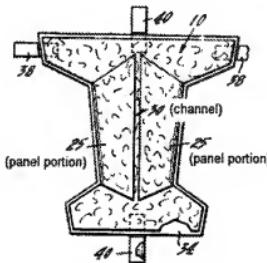
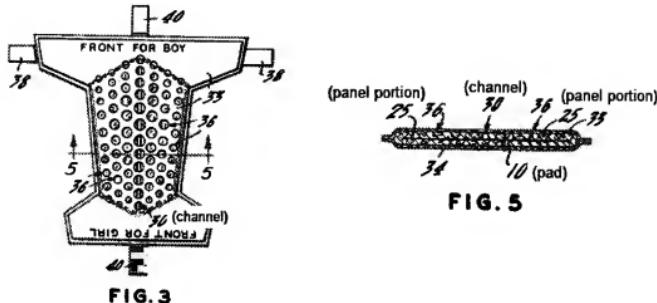


FIG. 2

With reference to Figures 1 and 2, Mason states that "The areas 25 of the pad adjacent the respective side edges and between the slits 18 and 19 constitute panel portions which may be folded inwardly to overlie the main central section of the pad, as shown in FIG. 2, thus doubling the thickness and absorptive capacity of the pad in this area." (See Col. 2, ll. 23-27). Mason also states: "It will be noted, however, that, due to the particular placement of the points 21 and 22 marking the inner limits of the slits, the infolded panel portions 25 just fail to meet in the central portion of the pad, leaving a narrow channel 30 running lengthwise of the pad in its central area for a purpose to be fully set forth hereinafter." (emphasis added). (See Col. 2, ll. 28-33).

For additional clarity, Figures 3 and 5 of Mason are reproduced below with reference numbers of particular interest being labeled.



As clearly shown above in Figures 3 and 5, the panel portions 25 of the absorbent pad 10 are separated by a channel 30.

The Office Action characterizes the two laterally opposed panels 25 of Mason as the fecal material storage element of claim 1. However, as clearly described and shown Mason, the panels 25 of Mason do not contiguously extend across the longitudinal axis of the absorbent article. Therefore, for at least this reason, Mason fails to teach or suggest all the limitations recited in claim 1.

Next, independent claim 1 recites that "at least a portion of one of the edges of the fecal material storage element being disposed distally of a portion of the corresponding one of the edges of the absorbent core." (emphasis added). However, no edges of the panels 25 of Mason are disposed distally of corresponding side edges of the absorbent core. Instead, as best illustrated above in Figures 2 and 5 of Mason, the inner longitudinal edges of the panels 25 that border the channel 30 are disposed proximally of the longitudinal side edges of the absorbent pad, and the outer longitudinal side edges of the right and left panels 25 are the same longitudinal side edges of the absorbent pad 10. In addition, the front and rear lateral side edges of the panels 25 are disposed proximally of the front and rear lateral side edges of the absorbent pad. Therefore, for at least this reason, Mason fails to teach or suggest all the limitations recited in claim 1.

Thus, it is respectfully submitted that, for at least the reasons discussed above, claim 1 is patentable under 35 U.S.C. § 102(b) and 35 U.S.C. § 103(a) over Mason.

Appl. No. 10/717,098
Docket No. 4981C2C
Amdt. dated January 17, 2008
Reply to Office Action mailed on October 18, 2007
Customer No. 27752

Claims 3, 5-11, and 14 depend from and include all the limitations of claim 1. As such, for at least the same reasons discussed above with reference to claim 1, claims 3, 5-11, and 14 are also patentable under 35 U.S.C. § 102(b) and 35 U.S.C. § 103(a) over Mason.

Therefore, it is believed that claims 1, 3, 5-11, and 14 are in form for allowance and such indication is respectfully suggested.

Rejection Under 35 U.S.C. § 103(a) Over Mason in view of Matthews

Claims 2, 4, 12, 13, and 15-20 have been rejected under 35 U.S.C. § 103(a), as being unpatentable over Mason in view of U.S. Patent No. 4,397,644 issued to Matthews (hereinafter "Matthews"). In order to establish a prima facie case of obviousness, the prior art reference (or references when combined) must teach or suggest all the claim limitations. (*See MPEP § 2143*). It is respectfully submitted that the Office Action does not establish a prima facie case of obviousness with respect to claims 2, 4, 12, 13, and 15-20.

In the Office Action, it is asserted that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to bond the topsheet and fecal material storage element of Mason at discrete sites leaving open areas in the range taught by Matthews. As discussed above, Mason does not teach or suggest all the claim limitations of independent claim 1. Modifying Mason by bonding the topsheet and the panel portions of the absorbent core with the teachings of Matthews does not correct the deficiencies of Mason. As such, it is believed that independent claim 1 is not obvious under 35 U.S.C. § 103(a) over Mason in view of Matthews. Claims 2, 4, 12, and 13 depend from and include all the limitations of claim 1. As such, for at least the same reasons discussed above with reference to claim 1, claims 2, 4, 12, and 13 are also patentable under 35 U.S.C. § 103(a) over Mason in view of Matthews.

Independent claims 15 and 17 recite the same limitations discussed above with reference to the rejection of independent claim 1 over Mason, and thus, are believed not obvious under 35 U.S.C. § 103(a) over Mason in view of Matthews. Claims 16 and 18-20 depend from and include all the limitations of claims 15 and 17, respectively. As such, for at least the same reasons discussed above with reference to claims 15 and 17, claims

Appl. No. 10/717,098
Docket No. 4981C2C
Amdt. dated January 17, 2008
Reply to Office Action mailed on October 18, 2007
Customer No. 27752

16 and 18-20 are also patentable under 35 U.S.C. § 103(a) over Mason in view of Matthews.

Accordingly, it is believed that claims 2, 4, 12, 13, and 15-20 are in form for allowance and such indication is respectfully suggested.

Rejection Under 35 U.S.C. § 103(a) Over Mason in view of Matthews and further in view of Jones and further in view of Meyer

Claims 13, 15, and 16 have been rejected under 35 U.S.C. § 103(a), as being unpatentable over Mason in view of Matthews and further in view of U.S. Patent No. 3,593,717 issued to Jones (hereinafter “Jones) and further in view of U.S. Patent No. 4,798,603 issued to Meyer et al. (hereinafter “Meyer”). In order to establish a prima facie case of obviousness, the prior art reference (or references when combined) must teach or suggest all the claim limitations. (*See* MPEP § 2143). It is respectfully submitted that the Office Action does not establish a prima facie case of obviousness with respect to claims 13, 15, and 16.

In the Office Action, it is asserted that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination of Mason and Matthews to include apertures having a depth of at least 0.75 mm as taught by Jones. The Office Action also asserts that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination of Mason, Matthews, and Jones to maintain a bind-hole depth at a compression level taught by Meyer.

As discussed above, independent claims 1 and 15 are believed patentable under U.S.C. § 103(a) over the combination of Mason and Matthews. Modifying the asserted combination of Mason and Matthews with aperture depths and compression levels in accordance with Jones and Meyer does not correct the deficiencies of Mason and Matthews. As such, it is believed that independent claims 1 and 15 are not obvious under 35 U.S.C. § 103(a) over Mason in view of Matthews and further in view of Jones and further in view of Meyer. Claims 13 and 16 depend from and include all the limitations of claims 1 and 15, respectively. As such, for at least the same reasons discussed above

Appl. No. 10/717,098
Docket No. 4981C2C
Amdt. dated January 17, 2008
Reply to Office Action mailed on October 18, 2007
Customer No. 27752

with reference to claims 1 and 15, claims 13 and 16 are also patentable under 35 U.S.C. § 103(a) over Mason in view of Matthews and further in view of Jones and further in view of Meyer.

Accordingly, it is believed that claims 13, 15, and 16 are in form for allowance and such indication is respectfully suggested.

Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejections. Early and favorable action in the case is respectfully requested.

Respectfully submitted,

THE PROCTER & GAMBLE COMPANY

By 
Charles R. Matson
Registration No. 52,006
(513) 634-0072

Date: January 17, 2008
Customer No. 27752
(Amendment-Response to Office Action.doc)
Revised 11/17/2006